

AN ACT

RELATING TO TAXATION; PROVIDING A REBATE FOR A PORTION OF TAXES IMPOSED FOR THE 2005 TAXABLE YEAR; PROVIDING AN EXEMPTION FROM INCOME TAX FOR THE 2005 TAXABLE YEAR REBATE; REDUCING INCOME TAX RATES FOR CERTAIN TAXPAYERS DURING THE 2005 AND 2006 TAXABLE YEARS; REPEALING SECTIONS OF LAWS 2003, CHAPTER 2 AND OF LAWS 2005, CHAPTER 104; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-7 NMSA 1978 (being Laws 2003, Chapter 2, Section 4) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning in 2005:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus 5.7% of excess over \$ 12,000.

B. For surviving spouses and married individuals

filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000	\$ 768 plus 5.7% of excess over \$ 24,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000	\$ 504.50 plus 5.7% of excess over \$ 16,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of

	excess over \$ 14,000
Over \$ 20,000	\$ 625 plus 5.7% of excess over \$ 20,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 2. Section 7-2-7 NMSA 1978 (being Laws 2003, Chapter 2, Section 4, as amended, and as further amended by Section 1 of this act if it becomes law) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for taxable years beginning in 2006 or 2007:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000

Over \$ 12,000 \$ 384 plus 5.3% of
excess over \$ 12,000.

B. For heads of household, surviving spouses and
married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000	\$ 768 plus 5.3% of excess over \$ 24,000.

C. For single individuals and for estates and
trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000	\$ 504.50 plus 5.3% of excess over \$ 16,000.

D. The tax on the sum of any lump-sum amounts
included in net income is an amount equal to five multiplied by
the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 3. A new section of the Income Tax Act is enacted to read:

"TAX REBATE--2005 TAXABLE YEAR.--

A. Except as otherwise provided in this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual is entitled to a tax rebate during the 2005 taxable year for a portion of state and local taxes to which the person has been subject during the 2005 taxable year, even if the resident has no income taxable pursuant to the Income Tax Act.

B. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual; provided that, in the case of a husband and wife who have filed a joint return where only one individual is a New Mexico resident, the number of exemptions shall be reduced by one.

C. Except as otherwise provided in Subsection D of this section, the tax rebate provided for in this section is allowed for the amount shown in the following table:

resident's 2005 New Mexico personal income tax return based on the federal adjusted gross income and on the number of federal exemptions allowable for federal income tax purposes reported on that return.

F. The department shall not make an advance payment of the tax rebate provided for in this section to a person who:

(1) was an inmate of a public institution for more than six months during the 2004 taxable year; or

(2) was not a resident of New Mexico on the last day of the 2004 taxable year.

G. The department shall not allow a tax rebate provided in this section to a person who claims the rebate on that person's 2005 personal income tax return, but:

(1) was an inmate of a public institution for more than six months during the 2005 taxable year; or

(2) was not a resident of New Mexico on the last day of the 2005 taxable year.

H. The secretary may adopt regulations necessary to administer the provisions of this section.

I. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed

by the resident."

Section 4. A new section of the Income Tax Act is enacted to read:

"EXEMPTION--2005 TAXABLE YEAR REBATE.--The tax rebate made for the 2005 taxable year pursuant to this 2005 act is exempt from state income tax."

Section 5. APPROPRIATION.--Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2006 and 2007 to administer the tax rebate provided for in this 2005 act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

Section 6. REPEAL.--

- A. Laws 2003, Chapter 2, Section 5 is repealed.
- B. Laws 2003, Chapter 2, Section 6 is repealed.
- C. Laws 2005, Chapter 104, Section 2 is repealed.
- D. Laws 2005, Chapter 104, Section 3 is repealed.

Section 7. EFFECTIVE DATE.--The effective date of the provisions of Section 2 of this act is January 1, 2006.

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.